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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,844

07/25/2006

Mark James Long

12950/3

6016

757 7590 02/12/2008  
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EXAMINER

PHAN, HAU VAN

ART UNIT

PAPER NUMBER

3618

MAIL DATE

DELIVERY MODE

02/12/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/550,844	<b>Applicant(s)</b> LONG, MARK JAMES	
	<b>Examiner</b> Hau V. Phan	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 7, 12-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/22/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 1/22/2005 is being considered by the examiner.

### ***Claim Objections***

3. Claims 12, 20 are objected to because of the following informalities:  
Claim 12, line 2, the number "10" before "each load" need to be deleted.  
Claim 20, line 9, the number "5" before "providing" need to be deleted.  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 8, 12, 16 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 8, 12, 16 and 20, it is unclear the term "its" refers to.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**7. Claims 1-6, 8-9 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Long et al. (7,201,549)**

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Long et al. in figures 1-6, disclose a load carrying vehicle which has a body forming a load carrying compartment (14) above a load deck (18). The vehicle includes a load item carrier structure that is located within the load carrying compartment and that includes a plurality of load platforms (28) for supporting load items thereon. Long et al. also disclose a platform support structure (26) located along the longitudinal centre line of the load deck. The platform support structure defines, for each load platform, a

plurality of support formations at different levels above the load deck and providing for at least partial support of the load platform at a selected level above a side half of the load deck, as determined by the support formations (see figure 6).

Regarding claim 2, Long et al. disclose each load platform comprising a substantially rectangular platform which can be supported by the platform support structure at locations coinciding with one longitudinal edge of the platform (3).

Regarding claim 3, Long et al. disclose the platform support structure including, for each load platform, a pair of spaced support posts (24) that define the support formations for the load platform and that are secured between the load deck and the body forming the load carrying compartment where the body defines the roof of the load carrying compartment.

Regarding claim 4, Long et al. disclose each pair of support posts defining support formations for supporting, at least partially, a load platform on each side of the centre line of the load deck above each half of the load deck (see figure 4).

Regarding claim 5, Long et al. disclose the platform support structure including a plurality of pairs of support posts (24) along the centre line of the load deck between opposite ends thereof, adjacent pairs of support posts (42) each having a common post that provides for at least partial support of a platform on each side thereof, along the length of the load deck.

Regarding claim 6, Long et al. disclose the support formations defined by the support posts provide for pivotal engagement of load platforms with respect to support posts, permitting displacement of the platforms between an operative position, in which

they are disposed substantially parallel to the load deck of the vehicle above the load deck and in which load items can be supported thereon, (Figure 3, figure 2B) and an inoperative position, in which they are folded substantially into a plane defined by the support posts (figure 2A).

Regarding claim 8, Long et al. disclose the platform support structure including at least one holding member (35) for each platform, for holding the platform in an operative position.

Regarding claim 9, Long et al. disclose the platform support structure including two holding members (42) for each platform.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**9. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long et al. (7,201,549) as applied to claim 9 above, and further in view of Wilson (5,443,350).**

Long et al. disclose the holding members, for each load platform, comprising legs, but fail to show the legs, which can be adjustable in length.

Wilson in figures 3-4, teaches a trailer having a body with upper and lower load. The trailer includes telescopic links (30) connecting to platform (20). It would have been

obvious to one of ordinary skill in the art at the time the invention was made to modify the load carrying vehicle of Long et al. with the trailer having telescopic links as taught by Wilson in order to support the platform in lifting and lowering position.

**10. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long et al. (7,201,549) as applied to claim 1 above, and further in view of Bobroff (2,656,216).**

Long et al. disclose a roof defining by the body of the load carrying compartment of the vehicle, which is secured on the walls defining by the body that surround the compartment in a configuration, but fail to show the roof, which can be raised.

Bobroff in figure 1, teaches an adjustable roof structure having a lift mechanism (56) and a roof unit (29a), which can be raised. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the load carrying vehicle of Long et al. with the adjustable roof having a roof unit as taught by Bobroff in order to provide increased capacity and ease of loading and unloading when necessary and to permit running with minimum overall height when the vehicle is empty or under reduced load.

***Allowable Subject Matter***

11. Claims 7 and 12-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Day discloses a convertible beverage body for delivery truck or trailer; McCalla discloses a transport trailer with collapsible shelves.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V. Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hau V Phan/  
Primary Examiner, Art Unit 3618